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U.S. DISTRICT COURT

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TEXAS-EASTERN

EDWARD T. MORIMOTO

§

V.

§

UNIVERSITY OF NORTH TEXAS
SYSTEM

§
§
§

BY

CASE NO. 4:05CV431

(Judge Schell /Judge Bush)

**MEMORANDUM ADOPTING, IN PART, REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On March 21, 2006, the Magistrate Judge entered his Report containing his proposed findings of fact and recommendation that Defendant's Motion to Dismiss be granted, that Plaintiff's 42 U.S.C. § 1981 claims and claim for punitive damages be dismissed with prejudice, and that Plaintiff's Title VII (42 U.S.C. § 2000e, *et seq.*) claims be dismissed without prejudice. Plaintiff filed objections on March 29, 2006 and, per the request of the Magistrate Judge, supplemented his objections on April 10, 2006.

The Court, having made a *de novo* review of the objections raised by the Plaintiff, is of the opinion that the findings and conclusions of the Magistrate Judge were correct when made; however, as Plaintiff has now attempted to obtain a right-to-sue letter from the Attorney General, the Court finds that dismissal of Plaintiff's Title VII claims is no longer appropriate. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge, in part, as the findings and conclusions of this Court. It is, therefore,

ORDERED, ADJUDGED and DECREED that Defendant's Motion to Dismiss is

GRANTED, in part, and Plaintiff's claims under § 1981 and for punitive damages are **DISMISSED WITH PREJUDICE**. It is further

ORDERED that Defendant's Motion to Dismiss is **DENIED** with respect to Plaintiff's Title VII claims.

Signed this 24th day of April, 2006


RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE